

Agricultural Marketing Service, USDA

§ 966.124

(e) During any period in which the handling of tomatoes is regulated pursuant to this part, no handler shall obtain an inspection certifying that said handler's tomatoes meet the requirements of the marketing order unless said handler has been certified as a registered handler. Any person who is not certified as a registered handler may receive inspection on tomatoes from the Federal-State Inspection Service. Such inspection certificate shall state "Fails to meet the requirements of Marketing Order No. 966 because the handler is not a registered handler."

[59 FR 51090, Oct. 7, 1994]

SAFEGUARDS

§ 966.120 Application for Certificate of Privilege.

(a) Whenever handling is regulated pursuant to § 966.54, each handler desiring to make shipments of tomatoes for any of the following purposes shall, prior thereto, apply to the committee for and obtain a Certificate of Privilege permitting such shipment:

- (1) For pickling, or
- (2) For processing, or
- (3) For experimental purposes, or
- (4) For relief or charity, or
- (5) For export, or

(6) For other purposes which may be specified by the committee, with the approval of the Secretary.

(b) Applications for Certificates of Privilege shall be made on forms furnished by the committee. Each application shall contain the name and address of the handler, and such other information as such committee may require, such as, but not limited, to the quantity (by grade, size, quality, and variety) of tomatoes to be shipped, the mode of transportation, consignee, destination, and other appropriate information or documents necessary to safeguard against the entry of such tomatoes into trade channels other than those for which the Certificate of Privilege is granted.

[21 FR 353, Jan. 19, 1956. Redesignated at 26 FR 12751, Dec. 30, 1961, as amended at 59 FR 51091, Oct. 7, 1994]

§ 966.121 Issuance.

The committee, or its duly authorized agents, shall give prompt consider-

ation to each application for a Certificate of Privilege and shall determine whether the application is approved. Approval of an application shall be evidenced by the issuance of a Certificate of Privilege authorizing the applicant named therein to ship tomatoes for a specified purpose for a specified period of time.

§ 966.122 Reports.

Each handler handling tomatoes under and pursuant to a Certificate of Privilege shall supply the committee with a report thereon within the time specified on the application for such certificate showing the name and address of the shipper, car or truck identification, loading point, destination, consignee, and, when inspection is required, the Federal-State Inspection Certificate number.

§ 966.123 Denial and appeal.

The committee may rescind a Certificate of Privilege issued to a handler, or deny a Certificate of Privilege to a handler, upon proof satisfactory to such committee, that such handler has shipped tomatoes contrary to the provisions of this part. Such committee action denying a Certificate of Privilege shall apply to and not exceed a reasonable period of time as determined by such committee. Any handler who has been denied a Certificate of Privilege, or who has had a Certificate of Privilege rescinded, may appeal to the committee for reconsideration. Such appeal shall be in writing.

§ 966.124 Approved receiver.

(a) *Approved receiver.* Any person who desires to acquire, as an approved receiver, tomatoes for purposes as set forth in § 966.120(a), shall annually, prior thereto, file an application with the committee on a form approved by it, which shall contain, but not be limited to, the following information:

- (1) Name, address, contact person, telephone number, and e-mail address of applicant;
- (2) Purpose of shipment;
- (3) Physical address of where manufacturing or other specified purpose is to occur;
- (4) Whether or not the receiver packs, repacks or sells fresh tomatoes;

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(5) A statement that the tomatoes obtained exempt from the fresh tomato regulations will not be resold or transferred for resale, directly or indirectly, but will be used only for the purpose specified in the corresponding certificate of privilege;

(6) A statement agreeing to undergo random inspection by the committee;

(7) A statement agreeing to submit such reports as is required by the committee.

(b) The committee, or its duly authorized agents, shall give prompt consideration to each application for an approved receiver and shall determine whether the application is approved or disapproved and notify the applicant accordingly.

(c) The committee, or its duly authorized agents, may rescind a person's approved receiver status upon proof satisfactory that such a receiver has handled tomatoes contrary to the provisions established under the Certificate of Privilege. Such action rescinding approved receiver status shall apply to and not exceed a reasonable period of time as determined by the committee or its duly authorized agents. Any person who has been denied as an approved receiver or who has had their approved receiver status rescinded, may appeal to the committee for reconsideration. Such an appeal shall be made in writing.

[70 FR 53540, Sept. 9, 2005]

EXEMPTION PROCEDURES

§ 966.130 Application.

Any person applying for exemption from regulations issued pursuant to § 966.52 shall file such application with the committee, or its duly authorized agent for such purpose, on forms to be furnished by such committee. Each application shall state the name and address of the applicant, the grade, size, and quality regulations from which exemption is requested; and facts demonstrating that the tomatoes, for which exemption is requested, were adversely affected by acts beyond his control or by acts beyond the applicant's reasonable expectation. Applications shall set forth such additional information as the committee may find necessary in making determinations with

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respect thereto, including, without limitation thereto, the information required on producers' applications by paragraphs (a) and (b) of this section.

(a) The location and acreage of the farm on which tomatoes for which exemption is requested, the location where such tomatoes are to be prepared for market, and the loading point from which such tomatoes are to be shipped if exemption is granted;

(b) Quantity (by grade, size, quality, and variety) of tomatoes harvested during the current season or any specific portion thereof prior to the date of application and to be harvested, subsequent to such date, during the remainder of the current season or any specific portion thereof (as may be determined pursuant to this part); an estimate of the portion of such tomatoes which can be handled under regulation issued pursuant to § 966.52, during the remainder of the season; and the reasons why all of such tomatoes cannot be handled under such regulations.

[22 FR 9132, Nov. 16, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961]

§ 966.131 Investigations.

The committee may authorize investigations of applications by its employees, and such other persons as may be necessary to procure adequate information to pass upon the merits of such applications.

[22 FR 9132, Nov. 16, 1957. Redesignated at 26 FR 12751, Dec. 30, 1961]

§ 966.132 Issuance.

(a) The committee, or its duly authorized agents, shall give prompt consideration to all statements and facts relating to each application for exemption, and, pursuant to applicable provisions of this part, a determination shall be made as to whether or not the application is approved. The determination, if approving the application, shall be evidenced by the issuance of a certificate of exemption pursuant to § 966.71: *Provided*, That a separate certificate may be issued, at the request of an applicant, for each affected field.

(b) The applicant shall be notified in writing if his request for exemption is denied.